

(3) “Estate tax” means any estate, inheritance, or death tax levied or assessed on the property of a decedent’s estate because of the death of a person and imposed by federal, state, local, or foreign law, including the federal estate tax and the inheritance tax imposed by *former* Chapter 211, Tax Code, and including interest and penalties imposed in addition to those taxes. The term does not include a tax imposed under Section 2701(d)(1)(A), Internal Revenue Code of 1986 (26 U.S.C. Section 2701(d)).

SECTION 3. The changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 4. This Act takes effect September 1, 2015.

Passed the Senate on March 25, 2015: Yeas 31, Nays 0; the Senate concurred in House amendment on May 28, 2015: Yeas 31, Nays 0; passed the House, with amendment, on May 22, 2015: Yeas 141, Nays 0, two present not voting.

Approved June 19, 2015.

Effective September 1, 2015.

OPERATIONS OF A MUNICIPALLY OWNED UTILITY OR MUNICIPAL POWER AGENCY; PROVIDING AUTHORITY TO ISSUE BONDS

CHAPTER 1162

S.B. No. 776

AN ACT

relating to the operations of a municipally owned utility or municipal power agency; providing authority to issue bonds.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 37.051, Utilities Code, is amended by adding Subsections (g), (h), and (i) to read as follows:

(g) *A municipally owned utility or a municipal power agency created under Chapter 163 may not directly or indirectly construct, install, or extend a transmission facility outside of the municipal boundaries of the municipality that owns the municipally owned utility, or the power agency’s boundaries, which for the purposes of this subsection consist of the municipal boundaries of the participating public entities, unless the municipally owned utility or power agency first obtains from the commission, through the application process provided by Section 37.053, a certificate that states that the public convenience and necessity requires or will require the transmission facility. Section 37.056 applies to an application under this subsection. This subsection does not apply to a transmission facility placed in service after September 1, 2015, that is developed to interconnect a new natural gas generation facility to the ERCOT transmission grid and for which, on or before January 1, 2015, a municipally owned utility was contractually obligated to purchase at least 190 megawatts of capacity.*

(h) *The commission shall adopt rules as necessary to provide exemptions to the application of Subsection (g) that are similar to the exemptions to the application of this section to an electric utility, including exemptions for:*

(1) *upgrades to an existing transmission line that do not require any additional land, right-of-way, easement, or other property not owned by the municipally owned utility; and*

(2) *the construction, installation, or extension of a transmission facility that is entirely located not more than 10 miles outside of a municipally owned utility’s certificated service area that occurs before September 1, 2021.*

(i) *The commission, not later than the 185th day after the date the application is filed, shall approve an application filed under Subsection (g) for a facility that is to be constructed under an interconnection agreement appended to an offer of settlement approved in a final order of the Federal Energy Regulatory Commission that was issued in Docket No. TX11-01-001 on or before December 31, 2014, directing physical connection between the ERCOT and SERC regions under Sections 210, 211, and 212 of the Federal Power Act (16 U.S.C. Sections 824i, 824j, and 824k). In approving the application, the commission may prescribe reasonable conditions to protect the public interest that are consistent with the final order of the Federal Energy Regulatory Commission.*

SECTION 2. Subchapter A, Chapter 35, Utilities Code, is amended by adding Section 35.009 to read as follows:

Sec. 35.009. AMOUNTS PAID IN LIEU OF AD VALOREM TAXES FOR CERTAIN FACILITIES. A municipally owned utility that is required to apply for a certificate of public convenience and necessity to construct, install, or extend a transmission facility within ERCOT under Chapter 37 is entitled to recover, through the utility's wholesale transmission rate, reasonable payments made to a taxing entity in lieu of ad valorem taxes on that transmission facility, provided that:

- (1) the utility enters into a written agreement with the governing body of the taxing entity related to the payments;*
- (2) the amount paid is the same as the amount the utility would have to pay to the taxing entity on that transmission facility if the facility were subject to ad valorem taxation;*
- (3) the governing body of the taxing entity is not the governing body of the utility; and*
- (4) the utility provides the commission with a copy of the written agreement and any other information the commission considers necessary in relation to the agreement.*

SECTION 3. Chapter 163, Utilities Code, is amended by adding Subchapter C-1 to read as follows:

SUBCHAPTER C-1. ALTERNATE GOVERNANCE FOR CERTAIN MUNICIPAL POWER AGENCIES

Sec. 163.071. DEFINITIONS. In this subchapter:

- (1) "Agency" means a municipal power agency for which concurrent ordinances are adopted under Section 163.073.*
- (2) "Bond" includes a note, but does not include a nonnegotiable purchase money note issued under Section 163.067 or 163.087.*
- (3) "Concurrent ordinance" means an ordinance or order adopted under this subchapter by all of the participating public entities of an agency.*
- (4) "Obligations" means revenue bonds or notes.*

Sec. 163.072. CONSTRUCTION. This subchapter shall be liberally construed to carry out its purpose.

Sec. 163.073. APPLICABILITY; ALTERNATE GOVERNANCE. (a) This subchapter applies to a municipal power agency created by two or more public entities under Subchapter C or a predecessor statute, including an agency re-created under Section 163.055 or a predecessor statute.

(b) The participating public entities of a municipal power agency may by concurrent ordinance elect to apply this subchapter to the agency as an alternative to Subchapter C.

(c) Concurrent ordinances described by this section must, as adopted by each public entity:

- (1) contain identical provisions; and*
- (2) state that the public entity has elected that the agency shall, on and after the date*

designated in the ordinance, be governed by the provisions of this subchapter.

Sec. 163.074. CONFLICTS WITH OTHER LAW. *This subchapter prevails to the extent of a conflict between this subchapter and any other law, including:*

- (1) a law regulating the affairs of a municipal corporation; or*
- (2) a home-rule charter provision.*

Sec. 163.075. NATURE OF AGENCY. *(a) An agency is a:*

- (1) separate municipal corporation;*
- (2) political subdivision of this state; and*
- (3) political entity and corporate body.*

(b) An agency may not impose a tax but has all the other powers relating to municipally owned utilities and provided by law to a municipality that owns a public utility.

Sec. 163.076. ADDITION OR REMOVAL OF PUBLIC ENTITIES. *(a) The public entities that created or re-created an agency may by concurrent ordinances:*

- (1) add a new public entity as a participating public entity in the agency; or*
- (2) remove a public entity from participation in the agency.*

(b) Concurrent ordinances described by this section must, as adopted by each public entity:

- (1) contain identical provisions;*
- (2) define the boundaries of the agency to include the territory within the boundaries of each participating public entity;*
- (3) designate the name of the agency; and*
- (4) designate the number, place, terms, and manner of appointment of directors, as provided by Section 163.078.*

(c) The public entities may not add or remove a public entity if the addition or removal will impair an agency obligation.

Sec. 163.077. ELECTION FOR ADDITION OF PUBLIC ENTITY. *(a) Public entities may not adopt concurrent ordinances under Section 163.076 adding a participating public entity unless the addition has been approved by a majority of the qualified voters of the additional public entity at an election called and held for that purpose.*

(b) Notice of an election under this section shall be given in accordance with Section 1251.003, Government Code. The election shall be called and held in accordance with:

- (1) the Election Code;*
- (2) Chapter 1251, Government Code; and*
- (3) this subchapter.*

Sec. 163.078. BOARD OF DIRECTORS. *(a) The agency shall be governed by a board of directors.*

(b) The board is responsible for the management, operation, and control of the property belonging to the agency.

(c) The board may by resolution delegate management or operational authority to an officer, employee, or committee of the agency, except that the delegation may not include legislative functions, including the sale or purchase of agency properties, the exercise of the power of eminent domain, the adoption or amendment of budgets and rates, or the issuance of debt. The board may repeal a resolution delegating management or operational authority:

- (1) if the board is composed of six or more directors, by the affirmative vote of six directors, including the affirmative vote of at least one director appointed by each participating public entity; or*
- (2) if the board is composed of fewer than six directors, by the affirmative vote of at least one director appointed by each participating public entity.*

(d) The board must include at least four directors. Each director must be appointed by place by the governing bodies of the participating public entities. Each participating public entity is entitled to appoint at least one director.

(e) Directors must serve staggered terms. Successor directors are appointed in the same manner as the original appointees.

(f) To qualify to serve as a director, when the person takes the constitutional oath of office, the person must be:

- (1) a qualified voter and reside in the boundaries of the appointing public entity;*
- (2) an employee, officer, or member of the governing body of the appointing public entity; or*
- (3) a retail electric customer of the appointing public entity.*

(g) Except as provided by Subsections (h) and (i), an employee, officer, or member of the governing body of a participating public entity serving as a director may not have a personal interest in a contract executed by the agency other than as an employee, officer, or member of the governing body of the public entity.

(h) An employee, officer, or member of the governing body of a participating public entity serving as a director is considered to be a local public official for the purposes of Chapter 171, Local Government Code.

(i) An agency and a participating public entity are considered to be political subdivisions for the purposes of Section 131.903, Local Government Code.

(j) Directors serve without compensation. A director who is an employee, officer, or member of the governing body of a participating public entity may continue to receive from the public entity the compensation associated with the office or employment.

(k) A director serves at the discretion of the appointing public entity. The governing body of a public entity that appoints a director may remove the director from office at any time with or without cause. The governing body shall promptly appoint a new director to serve the remainder of the unexpired term of the removed director.

Sec. 163.079. SEPARATE BOARDS OF DIRECTORS. *(a) The public entities that created or re-created an agency may amend the creating concurrent ordinances to provide for the agency to be governed by one board of directors for the agency's generation system and another board of directors for the agency's transmission system.*

(b) The concurrent ordinances as amended must contain identical provisions.

(c) Section 163.078 applies to the separate boards and to the directors of the separate boards, except that:

- (1) there is no minimum number of directors for a board established under this section;*
- (2) each participating public entity is not entitled to appoint a director to each board of an agency; and*
- (3) the repeal of a resolution under Section 163.078(c) does not require approval by at least one director appointed by each participating public entity.*

(d) Separate boards established under this section are not required to have the same number of directors.

Sec. 163.080. POWERS. *(a) An agency may not engage in any utility business other than:*

- (1) the generation and sale or exchange of electric energy to:*
 - (A) a participating public entity; or*
 - (B) a private entity that owns jointly with the agency an electric generating facility in this state; or*
- (2) the provision of wholesale transmission service under Chapter 35.*

(b) The agency may:

- (1) *perform any act necessary to the full exercise of the agency's powers;*
- (2) *enter into a contract, lease, or agreement with or accept a grant or loan from a:*
 - (A) *department or agency of the United States;*
 - (B) *department, agency, or political subdivision of this state; or*
 - (C) *public or private person;*
- (3) *use the uniform system of accounts prescribed for utilities and licenses by the Federal Energy Regulatory Commission; and*
- (4) *adopt rules to govern the operation of the agency and its employees, facilities, and service.*

(c) *The agency may sell, lease, convey, or otherwise dispose of any right, interest, or property of the agency, including its electric facilities. A sale, lease, conveyance, or other disposition having a value of more than \$10 million shall require prior approval of each participating public entity, unless the public entities have agreed otherwise by written contract or the property was purchased by the agency for mining purposes.*

Sec. 163.081. **CONSTRUCTION CONTRACTS.** (a) *Except as provided by Subsection (c), an agency may award a contract for construction of an improvement that involves the expenditure of more than \$20,000 only on the basis of competitive bids.*

(b) *The agency shall publish notice of intent to receive bids once a week for two consecutive weeks in a newspaper of general circulation in this state. The first publication must appear before the 14th day before the date bids are to be received.*

(c) *An entity that has joint ownership of the improvement to be constructed or that is an agent of a joint owner shall award a contract using the entity's contracting procedures.*

Sec. 163.082. **SALE OR EXCHANGE OF ELECTRIC ENERGY.** (a) *An agency may participate through appropriate contracts in power pooling and power exchange agreements with other entities through direct or indirect system interconnections.*

(b) *An entity that participates with an agency under this section may:*

- (1) *purchase electric energy from the agency;*
- (2) *sell or dispose of electric energy to the agency; or*
- (3) *exchange electric energy with the agency.*

(c) *An entity payment for electric energy purchased from the agency is an operating expense of the entity's electric system.*

(d) *An agency contract to sell or exchange electric energy may require the purchaser to pay for the electric energy regardless of whether the electric energy is produced or delivered.*

Sec. 163.083. **RATES AND CHARGES.** (a) *An agency may establish and maintain rates and charges for electric power and energy the agency delivers, transmits, or exchanges. The rates and charges must:*

- (1) *be reasonable and in accordance with prudent utility practices;*
- (2) *be based on periodic cost of service studies and subject to modification, unless such a basis for rates and charges is waived by the purchaser by contract; and*
- (3) *be developed to recover the agency's cost of producing and transmitting the electric power and energy, as applicable, which cost must include the amortization of capital investment.*

(b) *Notwithstanding Subsection (a), this state reserves its power to regulate an agency's rates and charges for electric energy supplied by the agency's facilities.*

(c) *Until obligations issued under this chapter have been paid and discharged, with all interest on the obligations, interest on unpaid interest installments on the obligations, and other connected and incurred costs or expenses, this state pledges to and agrees with the purchasers and successive holders of the obligations that it will not:*

- (1) *limit or alter the power of an agency to establish and collect rates and charges under this section sufficient to pay:*

- (A) necessary operational and maintenance expenses;
 - (B) interest and principal on obligations issued by the agency;
 - (C) sinking funds and reserve fund payments; and
 - (D) other charges necessary to fulfill the terms of any agreement; or
- (2) take any action that will impair the rights or remedies of the holders of the obligations.

Sec. 163.084. **REVENUE BONDS.** (a) The agency may issue revenue bonds to accomplish the purposes of the agency.

(b) The agency may pledge to the payment of the obligations the revenues of all or part of its electric facilities, including facilities acquired after the obligations are issued. However, operating and maintenance expenses, including salaries and labor, materials, and repairs of electric facilities necessary to render efficient service, constitute a first lien on and charge against the pledged revenue.

(c) The agency may set aside from the proceeds from the sale of the obligations amounts for payment into the interest and sinking fund and reserve fund, and for interest and operating expenses during construction and development, as specified in the proceedings authorizing the obligations.

(d) Obligation proceeds may be invested, pending their use, in securities, interest-bearing certificates, or time deposits as specified in the authorizing proceedings.

(e) Agency obligations are authorized investments for:

- (1) a bank;
- (2) a savings bank;
- (3) a trust company;
- (4) a savings and loan association; and
- (5) an insurance company.

(f) The obligations, when accompanied by all appurtenant, unmatured coupons and to the extent of the lesser of their face value or market value, are eligible to secure the deposit of public funds of this state, a political subdivision of this state, and any other political corporation of this state.

Sec. 163.085. **REFUNDING BONDS.** The agency may issue refunding bonds.

Sec. 163.086. **ISSUANCE, FORM, AND PROVISIONS OF BONDS.** (a) Agency bonds that are payable from agency revenues or anticipated bond proceeds and the records relating to their issuance must be submitted to the attorney general for examination before delivery.

(b) The bonds:

- (1) must mature serially or otherwise not more than 50 years after the date of issuance;
- (2) may be made redeemable before maturity at the time and at the price or prices set by the agency; and
- (3) may be sold at public or private sale under the terms and for the price the agency determines to be in the best interest of the agency.

(c) The bonds must be signed by the presiding officer or assistant presiding officer of the agency, be attested by the secretary, and bear the seal of the agency. The signatures may be printed on the bonds if authorized by the agency, and the seal may be impressed or printed on the bonds. The agency may adopt or use for any purpose the signature of an individual who has been an officer of the agency, regardless of whether the individual has ceased to be an officer at the time the bonds are delivered to the purchaser.

Sec. 163.087. **NONNEGOTIABLE PURCHASE MONEY NOTES.** (a) The agency may issue nonnegotiable purchase money notes to acquire land or fuel resources.

(b) Nonnegotiable purchase money notes are:

- (1) payable in installments;
- (2) secured by the property acquired with the notes or other collateral the agency substitutes; and
- (3) not a security or agency obligation.

(c) *Nonnegotiable purchase money notes may be further secured by a promise to issue bonds or bond anticipation notes to pay the purchase money notes.*

Sec. 163.088. BOND ANTICIPATION NOTES. (a) *The agency may issue bond anticipation notes:*

- (1) *for any purpose for which the agency may issue bonds; or*
- (2) *to refund previously issued bond anticipation notes or nonnegotiable purchase money notes.*

(b) *Bond anticipation notes are subject to the limitations and conditions prescribed by this subchapter for bonds.*

(c) *The agency may contract with purchasers of bond anticipation notes that the proceeds of one or more series of bonds will be used to pay or refund the notes.*

Sec. 163.089. PUBLIC SECURITIES. (a) *It is a public purpose for a public entity that has participated in the creation of an agency to pay costs of planning, acquisition, construction, ownership, operation, and maintenance of electric facilities.*

(b) *A public entity may issue public securities, as defined by Section 1201.002(2), Government Code, including bonds, notes, or other forms of indebtedness, in the principal amount approved by the governing body of the public entity, for the purpose of financing electric facilities or improvements to electric facilities to be owned or operated by the agency or otherwise in furtherance of a purpose described by this section.*

(c) *A public entity and an agency may agree in a contract, or by other official action of the public entity and agency, to terms and conditions governing the use by the agency of the proceeds of the public securities issued by a public entity for a purpose described by this section.*

(d) *A contract or other official action described by Subsection (c) may include provisions with respect to, and conclusively establish sufficient consideration for, the use of the proceeds. The consideration may include the right to:*

- (1) *use the financed facilities or portions of the facilities;*
- (2) *receive output from the financed facilities; or*
- (3) *receive an ownership interest in the financed facilities upon the dissolution of the agency or an undivided interest in the financed facilities at the time a public entity funds facility improvements.*

(e) *A contract or other official action described by Subsection (c) may contain other terms and extend for any period on which all of the parties agree.*

(f) *A public security issued for the purposes described by this section may include:*

- (1) *debt obligations issued in accordance with Chapter 1207, 1331, 1371, 1431, or 1502, Government Code, or Chapter 271, Local Government Code; or*
- (2) *other types or forms of debt that the public entity is authorized to issue.*

(g) *Each participating public entity may exercise any power of an issuer under Chapter 1371, Government Code.*

Sec. 163.090. DISSOLUTION. (a) *The participating public entities of an agency may by concurrent ordinance dissolve the agency.*

(b) *Concurrent ordinances dissolving an agency must:*

- (1) *contain identical provisions;*
- (2) *state that the agency will be dissolved upon the winding up of agency affairs;*
- (3) *direct the board or boards of the agency to wind up the business and affairs of*

the agency and to inform the participating public entities by resolution when the winding up of the business and affairs of the agency is complete; and

(4) state the date on which the dissolution takes effect, provided that the date provides sufficient time for the board or boards of the agency to wind up agency affairs.

(c) The participating public entities may not dissolve an agency if the dissolution will impair the rights or remedies of holders of obligations issued by the agency.

(d) The dissolved agency continues to exist to:

(1) satisfy existing liabilities or obligations;

(2) collect, distribute, or liquidate its assets; and

(3) take any other action required to adjust and wind up its business and affairs.

(e) The assets of the dissolved agency that remain after all liabilities or obligations of the agency have been satisfied shall be distributed to the public entities that created the agency. The public entities shall establish the method of distribution by agreement.

(f) An agreement between a public entity and an agency entered into before September 1, 2015, regarding the distribution of the agency's assets after dissolution is enforceable according to the terms of the agreement, regardless of a provision to the contrary in this subchapter.

SECTION 4. The changes in law made by this Act apply only to a transmission facility for which construction began on or after the effective date of this Act.

SECTION 5. This Act takes effect September 1, 2015.

Passed the Senate on April 9, 2015: Yeas 31, Nays 0; the Senate concurred in House amendment on May 31, 2015: Yeas 31, Nays 0; passed the House, with amendment, on May 26, 2015: Yeas 145, Nays 0, two present not voting.

Approved June 19, 2015.

Effective September 1, 2015.

EDUCATION ABOUT CONGENITAL CYTOMEGALOVIRUS IN INFANTS

CHAPTER 1163

S.B. No. 791

AN ACT

relating to education about congenital cytomegalovirus in infants.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. This Act shall be known as the Madeline Leigh Armstrong Act.

SECTION 2. Subtitle B, Title 2, Health and Safety Code, is amended by adding Chapter 46 to read as follows:

CHAPTER 46. CONGENITAL CYTOMEGALOVIRUS

Sec. 46.001. DEFINITION. In this chapter, "congenital cytomegalovirus" means cytomegalovirus acquired by an infant before birth.

Sec. 46.002. EDUCATIONAL MATERIALS ON CONGENITAL CYTOMEGALOVIRUS. (a) The department, in consultation with the Texas Medical Board, shall develop and publish informational materials for women who may become pregnant, expectant parents, and parents of infants regarding:

(1) the incidence of cytomegalovirus;

(2) the transmission of cytomegalovirus to pregnant women and women who may become pregnant;